



House of Representatives

File No. 881

General Assembly

January Session, 2011

(Reprint of File No. 9)

House Bill No. 6234
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 2, 2011

**AN ACT CONCERNING ELECTIONS OF THE EXECUTIVE BOARDS
OF DIRECTORS OF CONDOMINIUM UNIT OWNERS' ASSOCIATIONS
AND CHANGES TO THE COMMON INTEREST OWNERSHIP ACT.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 47-245 of the general statutes is amended by
2 adding subsections (j) and (k) as follows (*Effective October 1, 2011*):

3 (NEW) (j) No person shall provide or offer to any executive board
4 member or a person seeking election as an executive board member,
5 and no executive board member or person seeking election as an
6 executive board member shall accept, any item of value based on any
7 understanding that the vote, official action or judgment of such
8 member or person seeking election would be or has been influenced
9 thereby.

10 (NEW) (k) No managing agent of an association or person
11 providing association management services to such association shall
12 campaign for any person seeking election as an executive board
13 member.

14 Sec. 2. Section 47-239 of the general statutes is amended by adding
15 subsection (f) as follows (*Effective October 1, 2011*):

16 (NEW) (f) No person shall provide or offer to any member of the
17 master association's executive board or a person seeking election as a
18 member of the master association's executive board, and no member of
19 the master association's executive board or a person seeking election as
20 a member of the master association's executive board shall accept, any
21 item of value based on any understanding that the vote, official action
22 or judgment of such member or person seeking election would be or
23 has been influenced thereby.

24 Sec. 3. Section 20-458 of the general statutes is repealed and the
25 following is substituted in lieu thereof (*Effective October 1, 2011*):

26 (a) No contract between a person contracting to provide association
27 management services and an association which provides for the
28 management of the association shall be valid or enforceable unless the
29 contract is in writing and:

30 (1) Provides that the person contracting to provide management
31 services shall be registered as provided in sections 20-450 to 20-462,
32 inclusive, and shall obtain a bond as provided in section 20-460; and

33 (2) Provides that the person contracting to provide management
34 services shall not issue a check on behalf of the association or transfer
35 moneys exceeding a specified amount determined by the association
36 without the written approval of an officer designated by the
37 association; and

38 (3) Provides that the person contracting to provide management
39 services shall not enter into any contract binding the association
40 exceeding a specified amount determined by the association, except in
41 the case of an emergency, without the written approval of an officer
42 designated by the association.

43 (b) No contract to provide management services [may be] shall:

44 (1) Be sold or assigned to another person without the approval of a
45 majority of the executive board of the association; or

46 (2) Include any clause, covenant or agreement that indemnifies or
47 holds harmless the person contracting to provide management services
48 from or against any liability for loss or damage resulting from such
49 person's negligence or wilful misconduct.

50 Sec. 4. Section 47-278 of the general statutes is repealed and the
51 following is substituted in lieu thereof (*Effective October 1, 2011*):

52 (a) A declarant, association, unit owner or any other person subject
53 to this chapter may bring an action to enforce a right granted or
54 obligation imposed by this chapter, the declaration or the bylaws. The
55 court may award reasonable attorney's fees and costs.

56 (b) Parties to a dispute arising under this chapter, the declaration or
57 the bylaws may agree to resolve the dispute by any form of binding or
58 nonbinding alternative dispute resolution, provided: (1) A declarant
59 may agree with the association to do so only after the period of
60 declarant control has expired; and (2) an agreement to submit to any
61 form of binding alternative dispute resolution must be in a record
62 authenticated by the parties.

63 (c) (1) (A) Except as otherwise provided under subdivision (2) of
64 this subsection, before an association brings an action or institutes a
65 proceeding against a unit owner other than a declarant, the association
66 shall schedule a hearing to be held during a regular or special meeting
67 of the executive board and shall send a written notice by certified mail,
68 return receipt requested, and by regular mail, to the unit owner at least
69 ten business days prior to the date of such hearing. Such notice shall
70 include a statement of the nature of the claim against the unit owner
71 and the date, time and place of the hearing.

72 (B) The unit owner shall have the right to give testimony orally or in
73 writing at the hearing, either personally or through a representative,
74 and the executive board shall consider such testimony in making a

75 decision whether to bring an action or institute a proceeding against
76 such unit owner.

77 (C) The executive board shall make such decision and the
78 association shall send such decision in writing by certified mail, return
79 receipt requested, and by regular mail, to the unit owner, not later than
80 thirty days after the hearing.

81 (2) The provisions of subdivision (1) of this subsection shall not
82 apply to an action brought by an association against a unit owner (A)
83 to prevent immediate and irreparable harm, or (B) to foreclose a lien
84 for an assessment attributable to a unit or fines imposed against a unit
85 owner pursuant to section 47-258.

86 (d) (1) Any unit owner other than a declarant, seeking to enforce a
87 right granted or obligation imposed by this chapter, the declaration or
88 the bylaws against the association or another unit owner other than a
89 declarant, may submit a written request to the association for a hearing
90 before the executive board. Such request shall include a statement of
91 the nature of the claim against the association or another unit owner.

92 (2) Not later than thirty days after the association receives such
93 request, the association shall schedule a hearing to be held during a
94 regular or special meeting of the executive board and shall send
95 written notice by certified mail, return receipt requested, and by
96 regular mail, to the unit owner at least ten business days prior to the
97 date of such hearing. Such notice shall include the date, time and place
98 of the hearing. Such hearing shall be held not later than forty-five days
99 after the association receives such request.

100 (3) The executive board shall make a decision on the unit owner's
101 claim and the association shall send such decision in writing by
102 certified mail, return receipt requested, and by regular mail, to the unit
103 owner, not later than thirty days after the hearing.

104 (4) The failure of the association to comply with the provisions of
105 this subsection shall not affect a unit owner's right to bring an action

106 pursuant to subsection (a) of this section.

107 Sec. 5. Subsection (b) of section 47-255 of the general statutes is
108 repealed and the following is substituted in lieu thereof (*Effective*
109 *October 1, 2011*):

110 (b) (1) In the case of a building that contains units divided by
111 horizontal boundaries described in the declaration, or by vertical
112 boundaries that comprise or are located within common walls between
113 units, the insurance maintained under subdivision (1) of subsection (a)
114 of this section, to the extent reasonably available, shall include the
115 units, and all improvements and betterments installed by unit owners,
116 unless the declaration limits the association's authority to insure all
117 improvements and betterments or the executive board decides, after
118 giving notice and an opportunity for unit owners to comment, not to
119 insure such improvements and betterments. In the case of common
120 interest communities containing more than twelve units, unless the
121 association insures all improvements and betterments, the association
122 shall:

123 [(1)] (A) Prepare and maintain a schedule of the standard fixtures,
124 improvements and betterments in the units, including any standard
125 wall, floor and ceiling coverings covered by the association's insurance
126 policy;

127 [(2)] (B) Provide such schedule at least annually to the unit owners
128 in order to enable unit owners to coordinate their homeowners
129 insurance coverage with the coverage afforded by the association's
130 insurance policy; and

131 [(3)] (C) Include such schedule in any resale certificate prepared
132 pursuant to section 47-270.

133 (2) The provisions of this subsection shall not apply to a building in
134 a common interest community that has not more than two units
135 divided by a single horizontal or vertical boundary unless such
136 common interest community voluntarily chooses to comply with this

137 subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	47-245
Sec. 2	<i>October 1, 2011</i>	47-239
Sec. 3	<i>October 1, 2011</i>	20-458
Sec. 4	<i>October 1, 2011</i>	47-278
Sec. 5	<i>October 1, 2011</i>	47-255(b)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill impacts non-governmental entities and therefore has no fiscal impact upon the state or municipalities.

House "A" (LCO 7972) was technical/procedural and resulted in no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 6234 (as amended by House "A")******AN ACT CONCERNING ELECTIONS OF THE EXECUTIVE BOARDS OF DIRECTORS OF CONDOMINIUM UNIT OWNERS' ASSOCIATIONS AND CHANGES TO THE COMMON INTEREST OWNERSHIP ACT.*****SUMMARY:**

This bill makes the following changes to the Common Interest Ownership Act (CIOA). It:

1. prohibits an (a) executive board member of a residential common interest community association or master association (representing one or more common interest communities) or (b) individual seeking election to such board, from accepting any item of value based on the understanding that doing so will influence the member's or candidate's vote, official action, or judgment; and also prohibits someone from providing or offering something of value to these people;
2. prohibits a community association manager or person providing association management services from campaigning for any person seeking election to an executive board;
3. requires an association to hold a hearing before bringing an action or instituting a proceeding against a unit owner other than a declarant;
4. allows a unit owner, other than a declarant, to request such a hearing to enforce a right or obligation against an association or another unit owner; and
5. exempts certain buildings from the insurance requirements for

units divided by horizontal or vertical boundaries.

The bill also prohibits a contract between a common interest community association and an individual providing association management services from including any clause or agreement that indemnifies or holds the association manager harmless against any liability for loss or damage resulting from the manager's negligence or willful misconduct.

*House Amendment "A" removes provisions in the original file (1) prohibiting a community association manager or person providing association management services from soliciting proxies from unit owners and (2) eliminating a unit owners' association's right to assess a specific unit owner for a common expense caused by certain actions by the unit owner, the owner's tenant, or the owner's or tenant's guest or invitee. It also adds provisions (1) requiring an association to hold a hearing before bringing an action or instituting a proceeding against a unit owner other than a declarant, (2) allowing a unit owner, other than a declarant, to request such a hearing, and (3) exempting certain buildings from the insurance requirements for units divided by horizontal or vertical boundaries.

EFFECTIVE DATE: October 1, 2011

HEARING REQUIREMENTS FOR ASSOCIATIONS SUBJECT TO CIOA

Requirements

Current law allows anyone subject to CIOA to bring a court action to enforce a right or obligation imposed by CIOA or an association's declaration or bylaws. Parties to a dispute arising under CIOA, the declaration, or bylaws may agree to resolve the dispute by binding or nonbinding alternative dispute resolution under certain conditions.

The bill requires an association, before bringing an action or instituting a proceeding against a unit owner other than a declarant (developer), to schedule a hearing during a regular or special executive board meeting. The association must notify the unit owner of the

hearing date, time, and location at least 10 days in advance by certified mail, return receipt requested, and regular mail. The notice must also state the nature of the claim against the unit owner.

The bill gives the unit owner the right to give oral and written testimony at the hearing, either in person or through a representative. The executive board must consider this testimony when deciding whether to bring an action or institute a proceeding against the unit owner.

Within 30 days after the hearing, the association must notify the unit owner of the executive board's decision by certified mail, return receipt requested, and regular mail.

The bill exempts from this hearing requirement an action brought by an association against a unit owner to (1) prevent immediate and irreparable harm or (2) foreclose a lien for an assessment attributable to a unit or related fines imposed against a unit owner.

Hearings Requested By A Unit Owner

The bill allows a unit owner, other than a declarant, to submit a written request to the association for a hearing before the executive board. The unit owner may do this to enforce a right or obligation imposed by CIOA, the declaration, or bylaws against the association or another unit owner other than a declarant. The written request must state the claim's nature. The association must schedule the hearing within 30 days of receiving the request. The hearing must be held during a regular or special executive board meeting within 45 days of receiving the request. The association must notify the unit owner of the hearing date, time, and location at least 10 days in advance by certified mail, return receipt requested, and regular mail. Within 30 days after the hearing, the association must notify the unit owner of the executive board's decision in the same manner.

The bill specifies that the association's failure to comply with these hearing requirements does not affect a unit owner's right to bring an

action to enforce a right or obligation imposed by CIOA, the declaration, or bylaws.

INSURANCE REQUIREMENTS FOR UNITS DIVIDED BY VERTICAL OR HORIZONTAL BOUNDARIES

Current law requires an association to obtain property insurance for buildings in the common interest community that contain units with horizontal (i.e., stacked units) or vertical boundaries (i.e., side-by-side units) that comprise or are located within common walls between units. The insurance on such units must include coverage for improvements unit owners installed unless the (1) declaration limits the association's authority to do so or (2) executive board decides not to insure them after giving notice and an opportunity for unit owners to comment.

The bill specifies that these requirements do not apply to a building in a common interest community with up to two units divided by a single horizontal or vertical boundary unless the common interest community voluntarily chooses to comply.

By law, for common interest communities containing more than 12 units, unless the association insures all improvements and betterments, the association must:

1. prepare and maintain a schedule of the standard fixtures, improvements, and betterments in the units, including any standard wall, floor, and ceiling coverings covered by the association's insurance policy;
2. provide the schedule at least annually to the unit owners to enable them to coordinate their homeowners insurance coverage with the association's insurance policy; and
3. include the schedule in the resale certificate required by law.

BACKGROUND

Community Association Manager Contracts

The law requires a contract between a residential common interest community association and an individual providing association management services to contain certain provisions to be valid and enforceable. They must be in writing and (1) require a community association manager to be registered with the Department of Consumer Protection and covered by a fidelity bond; (2) prohibit the community association manager, without the written approval of an officer the association designates, from (a) issuing checks on the association's behalf, (b) transferring funds exceeding an amount determined by the association, or (c) entering into a contract binding the association exceeding a specific amount, except in an emergency; and (3) prohibit the contract from being sold or assigned to another person without the approval of a majority of the association's executive board.

Common Interest Community

A "common interest community" includes condominiums, cooperatives, and other property described in a declaration under which a person, by virtue of owning a unit, is obligated to pay (1) real property taxes on, (2) insurance premiums on, (3) for maintenance of, (4) for improvement of, or (5) for services or expenses related to, common elements or real property other than that individually owned unit described in the declaration (CGS § 47-202).

Common Interest Ownership Act

Generally, CIOA applies to common interest communities created in Connecticut on or after January 1, 1984. However, certain provisions of CIOA, to the extent necessary to construe these provisions, apply to common interest communities created in Connecticut before January 1, 1984, but only with respect to events and circumstances that occur after January 1, 1984.

Condominiums created before January 1, 1984 can amend their governing instruments (declaration, bylaws, survey, or plans) to conform to portions of CIOA that do not automatically apply.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 0 (02/08/2011)

Judiciary Committee

Joint Favorable

Yea 37 Nay 0 (04/14/2011)